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Congress of the United States

House of Representatives

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March 4, 2005

The Honorable Donald H. Rumsfeld
Secretary of Defense
1000 Defense Pentagon
Washington, DC 20301

The Honorable Michael Chertoff
Secretary of Homeland Security
Department of Homeland Security
Washington, DC 20528

The Honorable Condoleezza Rice
Secretary of State
U.S. Department of State
2201 C Street, NW
Washington, DC 20520

Dear Madam and Messrs. Secretary:

We are writing to request information about the increase in the number and value of large sole-source federal contracts awarded to Alaska Native Corporations. This growth in sole-source contracts with Alaska Native Corporations raises important questions about whether the interests of the taxpayer are being protected. We seek your cooperation in our Committee's investigation into these matters.

Background

In 1971, Congress enacted the Alaska Native Claims Settlement Act to resolve long-standing aboriginal land claims and to foster economic development in Alaska.¹ The Act transferred land and cash to newly created Alaska Native Corporations, whose shareholders were Alaska Natives. Amendments to the Act made in 1992 classified Alaska Native Corporations as "minority and economically disadvantaged" businesses.²

¹ Alaska Native Claims Settlement Act, 43 U.S.C §§ 1601-1629h.

² 43 U.S.C. § 1626(e).

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As a result, Alaska Native Corporations are eligible for participation in the Small Business Administration's section 8(a) program, under which minority and economically disadvantaged firms can be awarded federal contracts on a sole-source basis.³ Generally, sole-source 8(a) contracts must be valued under \$5 million for goods or \$3 million for services.⁴ However, the 1992 law provided that this restriction does not apply to Alaska Native Corporations.⁵ Thus, these firms are eligible to receive sole-source federal contracts of any value.

Moreover, joint ventures and partnerships between Alaska Native Corporations and non-native companies are eligible for sole-source contracts so long as the Alaska Native Corporation controls a majority of the total equity and total voting power of the joint venture or partnership.⁶

Document Request

Recent press reports and federal procurement data indicate that there has been an increase in the number and value of sole-source federal contracts awarded to Alaska Native Corporations. This growth in sole-source contracting raises questions about whether the interests of taxpayers are being protected. A fundamental principle of federal procurement law is that full and open competition should be the norm, but for specified exceptions. The absence of competition leaves the taxpayer susceptible to inflated costs and inadequate performance.

The Committee will be conducting an investigation into these issues this year. As part of our oversight efforts, we request the following:

- (1) Any Defense Contract Audit Agency, Defense Contract Management Agency, Department of Homeland Security, or Department of State audits or price reasonableness assessments of sole-source contracts with Alaska Native Corporations.
- (2) Any Inspector General reports regarding the award of sole-source contracts to Alaska Native Corporations by the Department of Defense, Department of Homeland Security, the Department of State, or the CPA.

³ 13 CFR 124.109(a).

⁴ 13 CFR 124.506(a)(1)(i); 15 U.S.C. § 637(a)(1)(D)(i).

⁵ Indian Tribe Exemption, 15 U.S.C. § 637, notes; § 602, P.L. 100-656.

⁶ 43 U.S.C. § 1626(e)(2).

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- (3) In September 2001, the National Geospatial Intelligence Agency (then the National Imagery and Mapping Agency) reportedly awarded NJVC, a joint venture formed by Chenega Corporation and Arctic Slope Regional Corporation, a 15-year, \$2.2 billion contract to manage the agency's information technology and to provide library and other services.⁷ Please provide the NJVC contract, any performance assessments for the contract, any decisional or justification documents for the sole-source award to NJVC, and any proposals or quotations from NJVC.
- (4) In July 2003, the Army reportedly awarded two sole-source, five-year contracts, each worth up to \$500 million, to provide private security guards for Army bases. One contract went to Alutiiq Security and Technology, an Alaska Native firm, which subcontracted work to a large non-native security firm. The other contract reportedly went to Chenega Technical Products, an Alaska Native firm, which subcontracted work to another large non-native security firm.⁸ Please provide the federal contracts with Alutiiq and Chenega, any task orders issued under these contracts, major subcontracts under both contracts, any performance assessments for the contracts, any decisional or justification documents for sole-source awards to Alutiiq and Chenega, and any proposals or quotations from Alutiiq and Chenega.

In late 2003, the Army reportedly held a subsequent base security competition. For this competition, please provide the Army's request for proposals or quotations, the proposals and quotations that were received, the contracts awarded, and any task orders issued under these contracts.

- (5) In July 2002, the Customs Service announced that it was soliciting offers for a \$500 million contract for the maintenance of gamma ray, X-ray, and other scanning machines at U.S. ports and borders. In early 2003, the Customs Service instead reportedly awarded Chenega Technology Services Corporation a sole-source contract for the work.⁹ Please provide the Chenega contract, any subcontracts awarded by Chenega, the Customs Service's initial request for proposals or quotations, any proposals, quotations, or letters of interest submitted for the requirement, any performance assessments for the contract, and any decisional or justification documents for the award to Chenega.

⁷ *Drawing the Line: Native Firms' Sole-Source Contract Faces Challenges*, Anchorage Daily News (July 29, 2001).

⁸ *Army Turns to Private Guards*, Los Angeles Times (Aug. 12, 2004).

⁹ *Alaska Native Corporations Cash in on Contracting Edge*, Washington Post (Nov. 25, 2004).

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- (6) We understand that the Transportation Security Administration (TSA) had been considering awarding a sole-source screening machine maintenance contract to Chenega in late 2004. Ultimately, TSA reportedly opted to seek competitive proposals for the contract.¹⁰ Please provide any documents or communications regarding the decision to compete the contract rather than award it to Chenega on a sole-source basis.
- (7) In late 2003 or early 2004, the CPA reportedly awarded Nana Pacific, an Alaska Native firm, a construction and communications contract worth up to \$70 million.¹¹ Please provide the Nana Pacific contract, any subcontracts awarded by Nana Pacific, any performance assessments for the contract, any decisional or justification documents for the award to Nana Pacific, and any proposal or quotation from Nana Pacific.
- (8) Since 2002, Olgoonik Corporation reportedly has been awarded more than \$225 million in contracts for construction work at U.S. embassies and military bases. Please provide the federal contracts with Olgoonik, any subcontracts awarded by Olgoonik, any performance assessments for the contracts, any decisional or justification documents for awards to Olgoonik, and any proposals or quotations from Olgoonik.

We would appreciate receiving the requested documents as soon as possible. If you have any questions or need additional information, please have your staff contact John Brosnan with the majority staff (225-5074) or Jeff Baran with the minority staff (224-5420).

Sincerely,



Tom Davis
Chairman



Henry A. Waxman
Ranking Minority Member

¹⁰ *TSA Reconsiders Technology Contract*, Washington Post (Nov. 30, 2004).

¹¹ *Pentagon Deputy's Probes in Iraq Weren't Authorized*, Los Angeles Times (July 7, 2004).